

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

<b>IN RE:</b>	:	<b>CHAPTER 11</b>
	;	
<b>THE KRYSTAL COMPANY, <i>et al.</i>,</b>	:	<b>CASE NO. 20-61065-PWB</b>
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
<hr style="border: 0.5px solid black;"/>	:	
	:	
<b>DESAI HOLDINGS, LLC,</b>	:	<b>CONTESTED MATTER</b>
	:	
<b>Movant,</b>	:	
<b>vs.</b>	:	
	:	
<b>THE KRYSTAL COMPANY, <i>et al.</i>,</b>	:	
	:	
<b>Respondent.</b>	:	
<hr style="border: 0.5px solid black;"/>	:	

**OBJECTION TO CURE AMOUNT OF DESAI HOLDINGS, LLC CLAIM**

COMES NOW Desai Holdings, LLC (“Landlord”) in the within action and objects to the cure amount assigned to the lease contract for non-residential real property located at 652 Highway 53 East SE, Calhoun, Georgia 30701 (lease CAL001) and in support thereof shows the following:

**Jurisdiction**

1. On January 19, 2020, Debtors filed their bankruptcy petitions under Chapter 11 of Title 11.

2. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§157(b)(1) and 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper pursuant to 28 U.S.C. §§1408 and 1409.

### **Factual History**

3. On or about February 12, 2020, Debtors filed a motion to sell assets pursuant to Section 363 of the Bankruptcy Code (Doc. No. 148).
4. On March 4, 2020, the Court issued an order (Doc. No. 227) approving the bidding procedures for the sale of Debtor's assets pursuant to Section 363 of the Bankruptcy code.
5. On April 7, 2020, The Krystal Company, et al. ("Debtor" or "Tenant"), filed its *Notice To Contract Parties To Potentially Assumed Executory Contracts and Unexpired Leases* (Doc. No. 310)(Notice).
6. The Notice includes cure costs for each contract based upon Debtor's records.
7. The Notice includes Exhibit "A" which lists all potential executory contracts and unexpired leases subject to sale together with their proposed cure amounts.
8. On page 11 of the Notice, Landlord is listed as having a cure amount of \$20,912.70 under the lease between Landlord and Tenant.

9. Tenant has underestimated the amount due to Landlord, neglecting to add fees and expenses permitted under the lease for Debtor's missed payments.
10. Landlord filed its Proof of Claim in this case on April 8, 2020 (Claim No. 403) in the amount of \$25,432.70. This claim includes pre-petition rent for January 2020 in the amount of \$11,456.35 (including late fees and interest), an administrative claim for post-petition rent for April 2020 in the amount of \$11,456.35 (including late fees and interest), and \$2,520.00 in attorney's fees. (See copy of Proof of Claim attached hereto as Exhibit "A").

**WHEREFORE**, Landlord respectfully requests the following:

- a. That this court increase Defendant Tenant's cure amount for Desai Holdings, LLC to \$25,432.70 as set forth in Landlord's Proof of Claim
- b. That this Court order Defendant Tenant to change the cure amount for Desai Holdings, LLC to \$25,432.70 in the documents provided to potential purchasers of Debtor Tenant's assets; and
- c. Whatever other relief this Court deems just and proper.

[END OF DOCUMENT]

This 17<sup>th</sup> day of April, 2020.

/s/ **Gai Lynn McCarthy**

Gai Lynn McCarthy

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<b>DESAI HOLDINGS, LLC,</b>	:	<b>CONTESTED MATTER</b>
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<b>Movant,</b>	:	
<b>vs.</b>	:	
	:	
<b>THE KRYSTAL COMPANY, et al.,</b>	:	
	:	
<b>Respondent.</b>	:	
<hr/>	:	

**CERTIFICATE OF SERVICE**

This is to certify that I have on this day electronically filed the foregoing *Objection To Cure Amount Of Desai Holdings, LLC* using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the following parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program:

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A copy of the forgoing *Objection To Cure Amount Of Desai Holdings, LLC Claim* was served on the parties on the attached two pages via first class mail with adequate postage thereon.

This 17<sup>th</sup> day of April, 2020

/s/ Gai Lynn McCarthy  
Gai Lynn McCarthy



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